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Notice of Allowability

Application No.

10/689,569

Examiner

Douglas N. Washburn

Applicant(s)

DITTBERNER, ANDREW B.

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 11 August 2005.
2. ☒ The allowed claim(s) is/are 1-20.
3. ☒ The drawings filed on 20 October 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Response to Amendment

1 Applicant amendment overcomes objection to claims 6-8, 10-13 and 15-20 and the objection is withdrawn.

Allowable Subject Matter

2 Claims 1-20 are allowed.

The following is an examiner's statement of reasons for allowance:

Claim 1 recites, in part, "a hearing aid under test operably interfaced with the source of prerecorded speech sounds and the hearing aid analysis circuitry; and a computer system operably connected to the hearing aid analysis circuitry and the source of prerecorded speech sounds, the computer system including: a control program that operates to present the prerecorded speech sounds to the hearing aid analysis circuitry to produce a first degraded signal routed through the filter circuitry and a second processed signal routed through the hearing aid and the filter circuitry; and a speech recognition program that compares speech recognition from the first degraded signal and speech recognition from the second processed signal to determine an objective indication of speech perception enhancement for the hearing aid under test". This feature in combination with the remaining claimed structure avoids the prior art of record.

Claims 2-11 depend from claim 1.

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Claim 12 recites, in part, "producing a first degraded signal routed through the filter circuitry; producing a second processed signal routed through the hearing aid and the filter circuitry; comparing speech recognition from the first degraded signal and speech recognition from the second processed signal using a speech recognition program; and determining an objective indication of speech perception enhancement for the hearing aid under test". This feature in combination with the remaining claimed structure avoids the prior art of record.

Claims 13-20 depend from claim 12.

It is these limitations, which are not found, taught or suggested in the prior art of record, and are recited in the claimed combination that makes these claims allowable over the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

3 Applicant's arguments, see amendment, filed 11 August 2005, with respect to claims 1 and 12 have been fully considered and are persuasive. The §102(b) rejection of claims 1, 2, 9 and 12 has been withdrawn.

Applicant argument overcomes §103(a) rejection of claims 3, 4, 5 and 14 and the rejection is withdrawn.

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Conclusion

4 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas N. Washburn whose telephone number is (571) 272-2284. The examiner can normally be reached on Monday through Thursday 6:30 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is ~~703-872-9306~~.

571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DNW

BRYAN BUI
PRIMARY EXAMINER

B. Bui
8/22/08